

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

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BLAINE HARRINGTON III	)	
Plaintiff/Counterclaim Defendant	)	
	)	
v.	)	Case No: 1:20-cv-01111-JB-JFR
	)	
MONICA BOEHMER, D.D.S., P.C.,	)	
Defendant/Counterclaim Plaintiff	)	

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**NOTICE OF ACCEPTANCE OF COUNTERCLAIM DEFENDANT'S OFFER OF  
JUDGMENT AND REQUEST FOR ENTRY OF JUDGMENT**

Defendant/Counterclaim Plaintiff Monica Boehmer D.D.S., P.C. ("Boehmer"), by its undersigned counsel, here files the Offer of Judgment served by Counterclaim Defendant Blaine Harrington, III on February 24, 2021, and the acceptance of that offer served by Counterclaim Plaintiff Boehmer on March 3, 2021, and requests the Clerk enter judgement in favor of Boehmer on its counterclaims and dismissing Plaintiff's claims in this case accordingly.

Respectfully submitted,

/s/ Jeffrey L. Squires  
Jeffrey L. Squires  
PEACOCK LAW P.C.  
201 Third Street NW  
Suite 1340  
Albuquerque, NM 87102  
Tel.: (505)-998-6116  
[jsquires@peacocklaw.com](mailto:jsquires@peacocklaw.com)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

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BLAINE HARRINGTON III )  
Plaintiff/Counterclaim Defendant )  
 )  
v. )  
 )  
MONICA BOEHMER, D.D.S., P.C., )  
Defendant/Counterclaim Plaintiff )

---

Case No. 1:20-cv-01111-JB-JFR

**CERTIFICATE OF SERVICE  
FOR  
NOTICE OF ACCEPTANCE OF COUNTERCLAIM DEFENDANT'S OFFER OF  
JUDGMENT AND REQUEST FOR ENTRY OF JUDGMENT**

I hereby certify that on this 4th day of March 2021, a true and correct copy of Notice of Acceptance of the Notice of Acceptance of Counterclaim Defendant's Offer of Judgment and Request for Entry of Judgment was filed via CM/ECF causing the following counsel of record to be served:

David C. Deal  
P.O. Box 1042  
Crozet, VA 22932  
Tele.: 434-233-2727  
[david@daviddeal.com](mailto:david@daviddeal.com)

/s/ Jeffrey L. Squires

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

BLAINE HARRINGTON III,

Plaintiff/Counter-Defendant,

V.

MONICA BOEHMER DDS PC,

Defendant/Counter-Claimant.

Civil Action No.:

1:20-cv-01111-JB-JFR

## OFFER OF JUDGMENT

Plaintiff/Counter-Defendant BLAINE HARRINGTON, pursuant to Federal Rule of Civil Procedure, Rule 68, hereby make this Offer of Judgment in the amount of One Dollar and One Cent (\$1.01), which includes all damages, taxable court costs, interest and attorneys' fees.

This Offer of Judgment is made in response and pertains to Defendant/Counter-Claimant MONICA BOEHMER DDS PC's Counterclaims (28 U.S.C. § 2201, "Misuse of Copyright," 1978 NMSA § 57-12-1, Prima Facie Tort) as described in Defendant/Counter-Claimant's Verified Answer and Counterclaims for Declaratory Judgment, Violation of the New Mexico Unfair Practices Act, and Prima Facie Tort (ECF No. 5).

This Offer is being tendered pursuant to Federal Rule of Civil Procedure 68 and is not to be treated as an admission of liability nor the amount of damages Plaintiff/Counter-Defendant may have sustained, in the event liability is determined to rest with Defendant/Counter-Claimant at the time of trial. Pursuant to F.R.Civ.P. 68(b), this Offer is not to be offered, introduced, or referred to in any way at trial in this matter in the event Defendant/Counter-Claimant fails or refuses to accept it within the specified period. Pursuant to F.R.Civ.P. 68(b), Plaintiff/Counter-Defendant will not file this Offer with the Court.

This Offer is tendered in good faith in an effort to resolve this matter short of trial.

Pursuant to F.R.Civ.P. 68(a), this offer will expire in fourteen (14) days, at the close of business (5:00 p.m. (EST)) on March 10, 2021. If the Offer has not been accepted by Defendant/Counter-Claimant prior to that time, then this offer is withdrawn and shall not be given in evidence or mentioned at trial per F.R.Civ.P. 68(b).

It is the intention of Plaintiff/Counter-Defendant in this case to seek and obtain recovery of all costs incurred by Plaintiff/Counter-Defendant from the time this offer is made through and including time of judgment, in the event that a verdict is returned in an amount less than \$1.01 following trial of this matter, pursuant to, F.R.Civ.P. 68(d).

Pursuant to F.R.Civ.P. 68(a), this Offer is being served on Defendant/Counter-Claimant's attorney of record. This Offer is not being filed with the Clerk of Court, and it shall not be transmitted to the Clerk of Court unless Defendant/Counter-Claimant accepts the Offer pursuant to F.R.Civ.P. 68(a).

This Offer is specific to Defendant/Counter-Claimant's claims and in no way affects or modifies Plaintiff/Counter-Defendant's affirmative defenses or ability to pursue its affirmative defenses at trial.

An acceptance of this Offer should be made in writing and delivered to counsel for Plaintiff/Counter-Defendant, on or before the expiration time specified in this Offer.

Dated: February 24, 2021

/s/ David C. Deal  
David C. Deal (VA Bar No.: 86005)  
The Law Office of David C. Deal, P.L.C.  
P.O. Box 1042  
Crozet, VA 22932  
434-233-2727, Telephone  
[david@daviddeal.com](mailto:david@daviddeal.com)  
*Attorney for Plaintiff*

CERTIFICATE OF SERVICE

I certify that on February 24, 2021, I emailed the foregoing to:

Jeffrey L. Squires  
201 Third Street NW, Suite 1340  
Albuquerque, NM 87102  
[jsquires@peacocklaw.com](mailto:jsquires@peacocklaw.com)

## Jeffrey Squires

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**From:** Jeffrey Squires  
**Sent:** Wednesday, March 3, 2021 3:58 PM  
**To:** David Deal (david@daviddeal.com)  
**Cc:** Jordi Kandarian; Toni Jones  
**Subject:** RE: Harrington v. Boehmer

Mr. Deal;

My client, Monica Boehmer DDS, PC, here gives notice of its acceptance of the offer of judgment you conveyed on February 24, 2021. Accordingly I will file a notice of the acceptance with the court and request that judgment be entered dismissing your complaint for copyright infringement.

Sincerely,

Jeff Squires

Jeffrey L. Squires  
Peacock Law P.C.  
201 Third St NW, Suite 1340  
Albuquerque, NM 87102  
Direct: 505-998-6116  
Cell: 202-509-4000  
Fax: 505-243-2542  
email [jsquires@peacocklaw.com](mailto:jsquires@peacocklaw.com)

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